

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                    |  |                   |      |
|--------------------|--|-------------------|------|
| Application Number | : 10/591,419   | Confirmation No.: | 1422 |
| Applicant          | : Claus FROHBURG, <i>et al.</i>  |                   |      |
| I.A. Filed         | : March 4, 2005  |                   |      |
| Title              | : METHODS FOR IDENTIFYING PROTEINS WITH STARCH<br>PHOSPHORYLATING ENZYMATIC ACTIVITY |                   |      |
| TC/Art Unit        | : 1638   |                   |      |
| Examiner:          | : <i>Unassigned</i>  |                   |      |
| Docket No.         | : 65084.000020   |                   |      |
| Customer No.       | : <b>21967</b>   |                   |      |

**MAIL STOP 16**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR § 1.27**

Sir:

Applicants hereby petition the Director to expunge a transaction entry that occurred during the processing of the above-identified patent application.

On May 9, 2008, the U.S. Patent and Trademark Office ("USPTO") entered a Transaction Description of "Small Entity Statement (37 CFR 1.27)" in the Transaction History of the above-identified patent application. *See* Transaction History, attached herewith as **Exhibit A**; *see also* Notice of Acceptance (listing a "Small Entity Statement" as filed on May 9, 2008), attached herewith as **Exhibit B**.

Applicants, however, did not file a Small Entity Statement under 37 C.F.R. § 1.27. Rather, Applicants filed an Application Data Sheet affirmatively stating that they are not claiming small entity status. *See* Application Data Sheet filed September 1, 2007, attached herewith as **Exhibit C**; *see also* Transmittal Letter of September 1, 2006 (authorizing payment of large entity fees), attached herewith as **Exhibit D**.

Accordingly, because Applicants did not file a Small Entity Statement with the USPTO on May 9, 2008, Applicants respectfully request that the entry of "Small Entity Statement (37 C.F.R § 1.27)" be expunged from the Transaction History. Applicants also request that a Notice of Acceptance of Application under 35 U.S.C. § 371 and 37 C.F.R. § 1.495 be issued which does not list a Small Entity Statement as being filed.

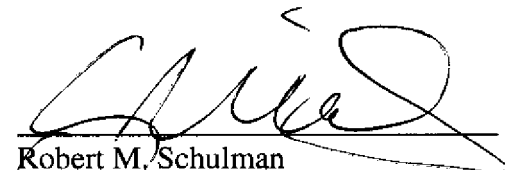
Applicants file this petition under 37 C.F.R. § 1.27 pursuant to instructions from the Office of Petitions received during a teleconference on July 18, 2008. Applicants were informed that no fees would be required for this petition.

Respectfully submitted,

HUNTON & WILLIAMS LLP

Dated: September 2, 2008

By:



Robert M. Schulman  
Registration No. 31,196

Christopher J. Nichols, Ph.D.  
Registration No. 55,984

Hunton & Williams LLP  
Intellectual Property Department  
1900 K Street, N.W. Suite 1200  
Washington, DC 20006  
(202) 955-1500 (telephone)  
(202) 778-2201 (facsimile)

**EXHIBIT A**

Transaction History of U.S. Patent Application No. 10/591,419

|            |   |                      |
|------------|---|----------------------|
| 10/591,419 | Methods For Identifying Proteins With Starch Phosphorylating Enzymatic Activity | 08-07-2008::12:29:17 |
|------------|---|----------------------|

**Transaction History**

| Date       | Transaction Description  |
|------------|--|
| 07-28-2008 | Filing Receipt - Corrected   |
| 11-09-2006 | Information Disclosure Statement (IDS) Filed   |
| 09-01-2006 | Information Disclosure Statement (IDS) Filed   |
| 06-25-2008 | Application Dispatched from OIPE   |
| 05-09-2008 | 371 Completion Date  |
| 06-20-2008 | Sent to Classification Contractor  |
| 06-20-2008 | Filing Receipt   |
| 06-20-2008 | Notice of DO/EO Acceptance Mailed  |
| 05-09-2008 | Additional Application Filing Fees   |
| 05-09-2008 | Small Entity Statement (37 CFR 1.27)   |
| 05-09-2008 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic |
| 02-22-2008 | Notice of DO/EO Missing Requirements Mailed  |
| 11-13-2007 | Information Disclosure Statement (IDS) Filed   |
| 09-22-2006 | Cleared by OIPE CSR  |
| 09-15-2006 | CRF Is Good Technically / Entered into Database  |
| 09-01-2006 | CRF Disk Has Been Received by Preexam / Group / PCT  |
| 09-01-2006 | Initial Exam Team nn   |

[Close Window](#)

**EXHIBIT B**

Notice of Acceptance of Application under 35 U.S.C. § 371 and 37 C.F.R. § 1.495  
for U.S. Patent Application No. 10/591,419 mailed June 20, 2008



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

|   |  |                                  |
|---|--|----------------------------------|
| U.S. APPLICATION NUMBER NO.<br>10/591,419 | FIRST NAMED APPLICANT<br>Claus Froberg | ATTY. DOCKET NO.<br>65084.000020 |
|---|--|----------------------------------|

21967

HUNTON & WILLIAMS LLP

INTELLECTUAL PROPERTY DEPARTMENT **RECEIVED**

1900 K STREET, N.W.

SUITE 1200

WASHINGTON, DC 20006-1109

JUN 23 2008

HUNTON & WILLIAMS

INTERNATIONAL APPLICATION NO.

PCT/EP05/02454

| I.A. FILING DATE | PRIORITY DATE |
|------------------|---------------|
| 03/04/2005       | 03/05/2004    |

**CONFIRMATION NO. 1422**  
**371 ACCEPTANCE LETTER**



Date Mailed: 06/20/2008

## NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

05/09/2008  
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1),  
(c)(2) and (c)(4) REQUIREMENTS

05/09/2008  
DATE OF COMPLETION OF ALL  
35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** The filing date of the above identified application is the International filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 09/01/2006
- Copy of the International Search Report filed on 09/01/2006
- Copy of IPE Report filed on 09/01/2006
- Preliminary Amendments filed on 09/01/2006
- Information Disclosure Statements filed on 09/01/2006
- Biochemical Sequence Diskette filed on 09/01/2006
- Oath or Declaration filed on 05/09/2008
- Biochemical Sequence Listing filed on 09/01/2006
- \* Small Entity Statement filed on 05/09/2008
- Request for Immediate Examination filed on 09/01/2006
- U.S. Basic National Fees filed on 09/01/2006
- Assignment filed on 09/01/2006
- Priority Documents filed on 09/01/2006
- Power of Attorney filed on 05/09/2008
- Specification filed on 09/01/2006
- Claims filed on 09/01/2006

6638  
AB **DOCKETED**  
65084.000020

- Abstracts filed on 09/01/2006
- Drawings filed on 09/01/2006

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

DEBORAH D WILLIAMS

---

Telephone: (703) 308-9140 EXT 205

**EXHIBIT C**

Application Data Sheet filed September 1, 2007



10/591419

**APPLICATION DATA SHEET** **AP5 Rec'd PCT/PTO 01 SEP 2006**

**Application Information**

**Application Number::** *Unassigned*  
**Filing Date::** September 1, 2006  
**Application Type::** Regular (371 National Stage filing)  
**Subject Matter::** Utility  
**Title Line One::** METHODS FOR IDENTIFYING PROTEINS  
**Title Line Two::** WITH STARCH PHOSPHORYLATING  
**Title Line Three::** ENZYMATIC ACTIVITY  
**Attorney Docket Number::** 65084.000020  
**Request for Early Publication?::** No  
**Request for Non-Publication?::** No  
**Small Entity?::** No  
**Petition Included?::** No

**Applicant Information**

**Applicant One Authority Type::** Inventor  
**Primary Citizenship** Germany  
**Status::** Full Capacity  
**Given Name::** Claus  
**Family Name::** FROHBURG  
**City of Residence::** Kleinmachnow  
**Country of Residence::** Germany  
**Street of Mailing Address Line One::** Pilzwald 17  
**City of Mailing Address::** Kleinmachnow  
**Country of Mailing Address::** Germany  
**Postal or Zip Code::** 14532

**Applicant Information**

**Applicant Two Authority Type::** Inventor  
**Primary Citizenship** Germany  
**Status::** Full Capacity  
**Given Name::** Oliver  
**Family Name::** KOETTING  
**City of Residence::** Zürich  
**Country of Residence::** Switzerland  
**Street of Mailing Address Line One::** Saumstr. 53  
**City of Mailing Address::** Zürich  
**Country of Mailing Address::** Switzerland  
**Postal or Zip Code::** 8003

**Applicant Information**

**Applicant Three Authority Type::** Inventor  
**Primary Citizenship** Germany  
**Status::** Full Capacity  
**Given Name::** Gerhard  
**Family Name::** RITTE  
**City of Residence::** Potsdam  
**Country of Residence::** Germany  
**Street of Mailing Address Line One::** Feuerbachstr. 12  
**City of Mailing Address::** Potsdam  
**Country of Mailing Address::** Germany  
**Postal or Zip Code::** 14471

**Applicant Information**

Applicant Four Authority Type:: Inventor  
Primary Citizenship Germany  
Status:: Full Capacity  
Given Name:: Martin  
Family Name:: STEUP  
City of Residence:: Berlin  
Country of Residence:: Germany  
Street of Mailing Address Line One:: Am Schlachtensee 116  
City of Mailing Address:: Berlin  
Country of Mailing Address:: Germany  
Postal or Zip Code:: 14129

**Correspondence Information**

Correspondence Customer No.: 21967  
Name:: Hunton & Williams LLP  
Street of Mailing Address Line One:: 1900 K St., N.W.  
Street of Mailing Address Line Two:: Suite 1200  
City of Mailing Address:: Washington  
State or Province of Mailing Address:: DC  
Country of Mailing Address:: US  
Postal or Zip Code:: 20006-1109  
Telephone Number:: (202) 955-1500  
Facsimile Number:: (202) 778-2201  
E-Mail Address:: rschulman@hunton.com

**Representative Information**

Representative Customer Number:: 21967

**Domestic Priority Information**

| Application::     | Continuity Type:: | Filing Date:: | Status  |
|-------------------|-------------------|---------------|---------|
| PCT/EP2005/002454 | National Stage    | March 4, 2005 | Pending |
| 60/549,980        | Provisional       | March 5, 2004 | Expired |

**Foreign Priority Information**

| Country: | Application Number:: | Filing Date::    | Priority Claimed:: |
|----------|----------------------|------------------|--------------------|
| EP       | 040 90 087.0         | March 5, 2004    | YES                |
| EP       | 040 90 121.7         | March 29, 2004   | YES                |
| EP       | 040 90 483.1         | December 9, 2004 | YES                |

**Assignee Information**

Assignee Name:: Bayer CropScience GmbH  
Street of Mailing Address Line One:: Hermannswerder 20a  
City of Mailing Address:: Potsdam  
Country of Mailing Address:: Germany  
Postal or Zip Code:: D-14473

**EXHIBIT D**

Transmittal Letter to the United States Designated/Elected Office (DO/EO/US)  
concerning a Submission under 35 U.S.C. § 371 of September 1, 2006

|  |  |   |
|--|--|---|
| <b>TRANSMITTAL LETTER TO THE UNITED STATES<br/>DESIGNATED/ELECTED OFFICE (DO/EO/US)<br/>CONCERNING A SUBMISSION UNDER 35 U.S.C. 371</b>  |  | ATTORNEY'S DOCKET NUMBER<br><b>65084.000020</b> |
| U.S. APPLICATION NO. (if known, see 37 CFR 1.5)<br><b>10/591419</b>  |  |   |
| INTERNATIONAL APPLICATION NO.<br>PCT/EP2005/002454   | INTERNATIONAL FILING DATE<br>March 4, 2005 | PRIORITY DATE CLAIMED<br>March 5, 2004          |
| TITLE OF INVENTION<br><b>METHODS FOR IDENTIFYING PROTEINS WITH STARCH PHOSPHORYLATING ENZYMATIC ACTIVITY</b>   |  |   |
| APPLICANT(S) FOR DO/EO/US<br><b>Claus FROBERG      Oliver KOETTING      Gerhard RITTE      Martin STEUP</b>  |  |   |
| Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:  |  |   |
| 1. <input checked="" type="checkbox"/> This is a <b>FIRST</b> submission of items concerning a filing under 35 U.S.C. 371.   |  |   |
| 2. <input type="checkbox"/> This is a <b>SECOND</b> or <b>SUBSEQUENT</b> submission of items concerning a filing under 35 U.S.C. 371.  |  |   |
| 3. <input checked="" type="checkbox"/> This express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. |  |   |
| 4. <input checked="" type="checkbox"/> The US has been elected (Article 31).   |  |   |
| 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2))  |  |   |
| a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).  |  |   |
| b. <input checked="" type="checkbox"/> has been communicated by the International Bureau.  |  |   |
| c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).   |  |   |
| 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).   |  |   |
| a. <input type="checkbox"/> is attached hereto.  |  |   |
| b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).   |  |   |
| 7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))  |  |   |
| a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).   |  |   |
| b. <input type="checkbox"/> have been communicated by the International Bureau.  |  |   |
| c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.  |  |   |
| d. <input checked="" type="checkbox"/> have not been made and will not be made.  |  |   |
| 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).  |  |   |
| 9. <input checked="" type="checkbox"/> A copy of the oath or declaration of the inventor(s) as filed in the PCT Request (35 U.S.C. 371(c)(4)).   |  |   |
| 10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).                        |  |   |
| Items 11 to 20 below concern document(s) or information included:  |  |   |
| 11. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.  |  |   |
| 12. <input checked="" type="checkbox"/> An Assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.  |  |   |
| 13. <input checked="" type="checkbox"/> A Preliminary Amendment.   |  |   |
| 14. <input checked="" type="checkbox"/> An Application Data Sheet under 37 CFR 1.76.   |  |   |
| 15. <input type="checkbox"/> A substitute specification.   |  |   |
| 16. <input checked="" type="checkbox"/> A power of attorney and/or change of address letter.   |  |   |
| 17. <input checked="" type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821-1.825.   |  |   |
| 18. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4).   |  |   |
| 19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).   |  |   |
| 20. <input type="checkbox"/> Other items or information:   |  |   |

1AP5 Rec'd PCT/PTO 01 SEP 2006

|  |  |   |                        |                          |         |
|--|--|---|------------------------|--------------------------|---------|
| U.S. APPLICATION NO. (IF KNOWN, 37 CFR 1.7)  |  | INTERNATIONAL APPLICATION NO.   |                        | ATTORNEY'S DOCKET NUMBER |         |
| 10/591419  |  | PCT/EP2005/002454   |                        | 65084.000020             |         |
| The following fees have been submitted:  |  |   |                        | CALCULATIONS             | PTO USE |
| 21.  | <input checked="" type="checkbox"/> Basic National Fee (37 CFR 1.492(a)) | \$ 300.00   | \$                     | 300.00                   |         |
| 22.  | <input checked="" type="checkbox"/> Examination Fee (37 CFR 1.492(c))    |   | \$                     | 200.00                   |         |
| If the written opinion prepared by ISA/US or the International Preliminary Examination Report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)   |  | \$ 0.00   |                        |                          |         |
| All other situations   |  | \$ 200.00   |                        |                          |         |
| 23.  | <input checked="" type="checkbox"/> Search Fee (37 CFR 1.492(b))         |   | \$                     | 400.00                   |         |
| If the written opinion of the ISA/US or the International Preliminary Examination Report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)  |  | \$ 0.00   |                        |                          |         |
| Search Fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority  |  | \$ 100.00   |                        |                          |         |
| International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB   |  | \$ 400.00   |                        |                          |         |
| All other situations   |  | \$ 500.00   |                        |                          |         |
| TOTAL OF ABOVE CALCULATIONS =  |  |   | \$                     | 900.00                   |         |
| <input checked="" type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing filed in an electronic medium) (37 CFR 1.492(j)). |  |   |                        |                          |         |
| The fee is \$250.00 for each additional 50 sheets of paper or fraction   |  |   |                        |                          |         |
| Total Sheets   | Extra Sheets   | Number of each additional 50 or fraction thereof (round up to a whole number) | RATE                   |                          |         |
| 113 - 100  | 13 / 50  | 1   | x \$250.00             | \$                       | 250.00  |
| Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h))   |  |   | \$                     |                          |         |
| CLAIMS   | NUMBER FILED   | NUMBER EXTRA  | RATE                   | \$                       |         |
| Total claims   | 32 - 20 =  | 12  | x \$ 50.00             | \$                       | 600.00  |
| Independent claims   | 2 - 3 =  |   | x \$200.00             | \$                       |         |
| MULTIPLE DEPENDENT CLAIM(S) (if applicable)  |  |   | + \$360.00             | \$                       |         |
| TOTAL OF ABOVE CALCULATIONS =  |  |   | \$                     | 1,750.00                 |         |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees above are reduced by 1/2.   |  |   | \$                     |                          |         |
| SUBTOTAL =   |  |   | \$                     | 1,750.00                 |         |
| Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(f)).  |  |   | \$                     |                          |         |
| TOTAL NATIONAL FEE =   |  |   | \$                     | 1,750.00                 |         |
| Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property   |  |   | \$                     | 40.00                    |         |
| TOTAL FEES ENCLOSED =  |  |   | \$                     | 1,790.00                 |         |
|  |  |   | Amount to be refunded: | \$                       |         |
|  |  |   | Amount to be charged:  | \$                       |         |

|   |                               |                          |
|---|-------------------------------|--------------------------|
| U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR 1.7) | INTERNATIONAL APPLICATION NO. | ATTORNEY'S DOCKET NUMBER |
| <b>110/591419</b>                               | PCT/EP2005/002454             | 65084.000020             |

a. ☒ A check in the amount of **\$1,790.00** to cover the above fees is enclosed.

b. ☐ Please charge Deposit Account No. **50-0206** in the amount of \$\_\_\_\_\_ to cover the above fees.  
A duplicate copy of this sheet is enclosed.

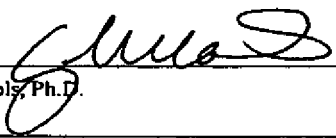
c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit to Deposit Account No. **50-0206** A duplicate copy of this sheet is enclosed.

d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**NOTE:** Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

**CUSTOMER NO. 21967**  
Intellectual Property Department  
Hunton & Williams LLP  
1900 K Street, N.W.; Suite 1200  
Washington, DC 20006-1109  
(202) 955-1500 (telephone)  
(202) 778-2201 (facsimile)

SIGNATURE  
  
Christopher J. Nichols, Ph.D.  
NAME  
55,984  
REGISTRATION NUMBER  
DATE **9/1/06**